

**Public testimony for information relative to 2009 Senate Bill 12, relating to operation of motorboats
at slow-no-wake speeds within a given distance of the shoreline of a lake**

Assembly Committee on Natural Resources Hearing

Wednesday, March 11, 2009

9:30 AM, 417 North (GAR Hall), State Capitol

**Prepared by Tim Asplund, Lake Ecologist with the Wisconsin Department of Natural Resources, Lakes
and Wetlands Section**

The following points address the potential ecological benefits of a uniform slow-no-wake area for shorelines of lakes and rivers. These observations come from over 15 years of lake research and management experience, including several years spent conducting studies on the ecological impacts of motor boat activity on aquatic ecosystems. Much more detail can be found in the following Department publication: "Effects of Motorized Watercraft on Aquatic Ecosystems" PUBL-SS-948-00:

<http://dnr.wi.gov/org/water/fhp/papers/lakes.pdf>

- 1) Shorelines and shallow, near shore areas of lakes are critical for fish, wildlife, and water quality and are sensitive to disturbance.**
 - a. Shorelines of lakes and rivers provide an important interface between land and water that protects water quality, provides habitat for amphibians, birds, and reptiles, and maintained in a natural state provides aesthetic and scenic beauty
 - b. Shallow, near-shore areas also provide important habitat and spawning areas for fish, and vegetated areas provide stabilization of sediments
 - c. Emergent vegetation (aquatic plants) in nearshore areas provides important natural buffering to waves and valuable fish habitat
- 2) Motor boats can cause impairment of these areas through shoreline erosion (boat wake), uprooting of vegetation (direct contact), and disturbance of lake bottom (prop wash).**
 - a. Operation of all motorized watercraft at speeds above slow-no-wake creates waves (wakes) and displacement of water by a propeller or turbine
 - i. Boat waves and wakes are greatest within the first few feet of the stern or lowest part of the boat, and diminish the farther away they get from the source, unlike wind-induced waves which build from the windward side of the lake to the opposite shore
 - ii. Turbulence (prop wash) of most recreational watercraft extends about 4-6 feet below the propeller or discharge point at maximum displacement but can extend up to 10 feet in some cases

- iii. Beyond about 300 feet, waves from boats do not cause much impact to shorelines, as the energy from the waves usually dissipates by then
- c. The further a slow-no-wake zone extends from shore, the more benefit is provided to shallow waters (less than 10 feet deep).
 - i. Shallow areas often extend well beyond 100 feet from shore and would benefit from additional protection through local ordinances
 - ii. Many local communities have enacted slow-no-wake ordinances at 200 feet from shore ,which creates additional protection from both shoreline erosion and disturbance of shallow waters
 - iii. The proposed "opt-out" rule provides an alternative where impacts are less likely (deep water, rocky shorelines, or wind-exposed areas) or there is a history of intensive use

Wisconsin Wildlife Federation

Wisconsin Wildlife Federation Testimony in support of Senate Bill 12---Slow-No-Wake Within 100 Feet of Shore

Chairman Black and members of the Assembly Natural Resources Committee. My name is George Meyer and I am representing the Wisconsin Wildlife Federation and its 164 hunting, trapping and forestry related organizations. Thank you for the opportunity to testify here today in support of Senate Bill 12 creating a slow-no-wake zone for all watercraft within 100 feet of the shoreline.

Our organization represents tens of thousands of anglers in the State of Wisconsin. We support the 100-foot restriction for two reasons that benefit anglers in the state. The near shore areas of our lakes are the most productive fishery areas in our waters. The vegetation and substrate in this littoral zone provide the most important and sensitive fish habitat. Restricting high-speed boat traffic in the near shore area will better protect this valuable fish habitat.

Secondly, a substantial amount of recreational fishing takes place along the near shore of our waterways by both boating and shore anglers. Restricting boat traffic speed in the near shore area to slow-no-wake will reduce user conflicts on our waters.

The bill very insightfully does allow a local unit of government to make an exception to the 100 foot slow-no-wake restriction if in fact there is a situation where there is good reason to allow faster boat traffic closer to shore. Undoubtedly such situations will arise.

We do appreciate the leadership of Senator Jauch, Representative Sherman and the other cosponsors in advancing this measure and respectfully request that this Committee support this initiative.

Submitted by
George Meyer
Executive Director

March 11, 2009



March 2, 2009

To: Legislators

From: Bob Miller
President, Yahara Lakes Association, LTD.

Re: AB90/SB12

YLA supports the goal of AB90/SB12, which is to create a statewide 100-foot no-wake zone, unless a local regulatory body adopts their own no wake zone. However, the bill, as drafted, fails to include Dane County in the list of local regulatory bodies that are able to opt out of the legislation and adopt their own no-wake zone.

Background

Dane County is the only county in Wisconsin with special power to enact county-wide boating, recreation and safety ordinances. This is because the legislature created the Dane County Lakes and Watershed Commission. The Commission's powers and membership are found in Wis. Stats. secs. 33.41 - 33.48. Under Wis. Stat., sec. 33.445, Dane County Lakes and Watershed Commission, along with the Dane County Board, are authorized to implement ordinances pertaining to boating, recreation or safety upon the navigable waters of Dane County. Dane County's ordinances enacted under this authority supercede any conflicting municipal ordinances. Dane County has enacted several ordinances under this authority, including Dane County Ordinance 72.08, which establishes a 200-foot no-wake zone for the Yahara Lakes.

The Problem

SB 12/AB90 authorizes some local regulatory bodies to opt out of the proposed statewide 100-foot no-wake zone. The list of local regulatory bodies identified in the bill includes cities, villages, towns, public inland lake protection and rehabilitation districts and town sanitary districts. However, Dane County is not included in this list.

By omitting Dane County from the list of local regulatory bodies authorized to adopt their own no-wake zone, AB 90/SB 12, as currently drafted, will require Dane County to reduce its current 200-foot no-wake zone, to a less protective, 100-foot no-wake zone.

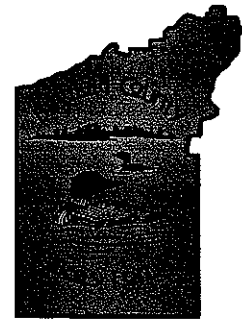
While 100 feet may be quite adequate to protect users of smaller lakes, the Yahara Lakes are some of the largest in the state, and support the use of large and powerful boats, which can achieve speeds up to 70 miles per hour. Accordingly, it is necessary for Dane County to have an ordinance restricting near shore speeds.

The Solution

To resolve this problem, we recommend that Dane County be added to the list of local regulatory bodies authorized to opt out of the proposed statewide 100-foot no-wake requirement.



Bayfield County Lakes Forum
45255 East Cable Lake Road, Cable, WI 54821
715-798-3163 Jim.Brakken@yahoo.com



To: The Assembly Committee on Natural Resources
From: Jim Brakken
Re: SB 12, the 100' from shore no-wake bill

3/11/09

I am Jim Brakken, President of the Cable Lake Association and the Bayfield County Lakes Forum. The Forum represents over 3,000 shoreland owners in Bayfield County. I am a Delegate to the Wisconsin Conservation Congress and a past President of the Wisconsin Association of Lakes. I also represent the Northwest Wisconsin Water Consortium. I am a retired public school teacher and now devote most of my time to the effort to protect and preserve Wisconsin's remarkable but fragile freshwater resources.

There was a time, many decades ago, when boat motors were all small. The few that did exist did little harm to our lakes and our lake users. But motors grew, both in size and number. I believe it was back in the 1940s or '50s that the Wisconsin Conservation Department required us to go slow when within 100 feet of docks, rafts and other boats. I learned from the UWEX Lakes Team that the average motor size back then was 3.6 horsepower. Today it approaches 100 horsepower and, according to the DNR website, Wisconsin has more than 575,000 registered boats – about one for every ten residents. That number has nearly doubled in the last 4 decades and will continue to increase. Wisconsin also has an estimated 325,000 non-motorized boats, about 75 percent of these are canoes and kayaks. Canoes and kayaks are ideal for exploring the shallows near shore. Another 300,000-or-so motorized boats visit our lakes from neighboring states. Boats plying Wisconsin waters are getting bigger. More than 40 percent of the registered boats in 1997–98 were between 16 and 39 feet long, compared to just 18 percent 20 years earlier.

When personal watercraft (PWCs) or Jet Skis came on the scene it became apparent that they could do damage in the very shallow water near shore. The threat to habitat and safety resulted in PWCs being required to stay at least 200 feet from shore, unless at a no wake speed. That sound decision was made in the mid 1990s. This law would not affect PWC regulations.

Although our existing law requires this 200-foot no-wake buffer for jet skis and similar personal watercraft, we still allow very fast boating near our natural, undeveloped shorelines. Motors keep getting bigger, more powerful and more plentiful. It is time we catch up with technology. This new bill does just that requiring fast boating to be done at least 100 feet from our natural, undeveloped shorelines.

If this bill becomes law, there will be a handful of lakes that will suffer some degree of recreational impairment. To address this, SB 12 includes an opt-out provision, allowing a local government to exclude a lake if this law significantly impacts recreation. This offers local control, using the same process now available for local governments, to place certain restrictions on individual lakes. For example, if a lake association felt this law created a hardship, they could petition their local town board to have the lake excluded. If a water ski club could no longer do its weekend fundraising show, the local government could exempt the lake or part of the lake from the rule.

Speaking of water skiers, this bill excludes pick-up and drop zones for water skiers. This addresses the needs of those who enjoy water skiing, tubing and similar activities. This also means that parents who want to teach their kids to ski will still be able to do this from the beach rather than in deep water, just as they have been doing for years.

I am told by Judge Chuck Dykman of Monona, Senator Miller and others, that all Dane County lakes have had this law in effect for almost a decade with no problems or objections. The Wisconsin Association of Lakes supports this effort, as you will hear today. I have talked with wardens who feel this would be a good regulation and easy to enforce.

The Wisconsin Conservation Congress Warm Water (lakes) Committee stands behind this. Also, at the 2006 Wisconsin Conservation Congress Spring Hearings, all 72 counties supported the 100' no-wake concept with 4 out of 5 sportsmen voting in favor. This is remarkably high result. (Source: Kurt Thiede, <kurt.thiede@wisconsin.gov>, DNR Liaison for the WCC.)

The Northwest Wisconsin Waters Consortium is a coalition of 9 countywide lake associations in northwestern Wisconsin. Northwest Waters represents over 30,000 shoreland owners and many others who enjoy our lakes. Northwest Waters feels this law is reasonable, long overdue, and will benefit our lakes and all those who enjoy them.

So how would this law benefit our citizens? The first thing it offers is

Protection of people: Children who play near shore, swimmers and fishermen, kayakers, pets, canoeists and all others who use the waters near shore will be protected from fast boats and their wakes. Parents and grandparents will appreciate this legislation.

Boater safety: Many boaters have suffered injury and some have died because they were traveling fast near shore. This rule will protect them as well as those who fish, swim or play in the water near shore. *This regulation will save lives.*

Protection of plants and animals: Most wild creatures spend at least part of their life in the near shore area. Nesting birds and other creatures are easily driven out by aggressive boating near shore.

Protection of spawning areas: This rule will protect many millions of eggs and fry. Sportsmen have told us that they want this rule.

Less 'prop wash': Data shows that the stirring effect of prop wash in shallow waters brings up nutrients that had settled out, often resulting in algae blooms and the growth of unwanted aquatic weeds. Prop wash also creates ideal growing conditions for aquatic invasive species such as Eurasian Watermilfoil.

Less erosion: This rule will go a long way in protecting shoreline from erosion, a major problem on many lakes. Eroded soil adds unwanted nutrients to the water, reduces clarity and can impact property values.

Reduced noise pollution in the near shore area: Surveys show that one of the most desirable qualities about lakes is the peace and quiet. Prohibiting fast boating near shore will help maintain the serenity and beauty of our lakes.

Compliance with the Public Trust Doctrine: This law does not deny access to the near shore area if boaters are willing to go slow. This law would help preserve plants and animals in the littoral zone. Scenic beauty, also considered within the Wisconsin Public Trust Doctrine, would be protected for all.

Let's look at boating safety again. It won't be long before the ice is out and boaters across Wisconsin will be out for their first cruise around the lake. In April, 2000, three young couples were out for their first boat ride of the season. They were cruising around on Lake Nepco, near Wisconsin Rapids. Gina Winters, wife of the driver, was knocked out of the boat by a tree limb. Her husband turned the boat around but it was too late. The Wood County authorities found her body three days later. (See press clipping) The boat was *legally* traveling about 25 mph, just 25 feet from shore, according to the Wood County Sheriff. We can only imagine the grief felt by family and friends. Future similar tragedies could be avoided with this new rule. *This law will save lives!*

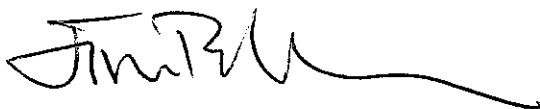
Bill Engfer was the DNR boating law administrator when the 200 foot buffer for PWCs went into effect. At that time he wrote in a DNR press item: "The closer you are to shore, the more congested the waters are with other boats and swimmers, and the greater your likelihood is of having a near-miss or an accident." "We've got a growing number of boaters out on the waters, but everybody seems to like to stay in close to shore. By moving out farther into the lake, you get away from the congestion and have more room to maneuver safely."

In the documents I have provided you today are several quotes from a report by DNR Limnologist Tim Asplund who will testify in support of this bill today. One of those quotes is "Given that most impacts of boats are exhibited in shallow water, near-shore areas, protecting these areas with no wake zones would be the most effective way of reducing impacts." (From *Impacts of Motorized Watercraft on the Lake Environment*, Tim Asplund, WDNR Limnologist)

In closing, Ole Evinrude gave us a great gift when he invented the outboard motor. But I wonder what Ole would have to say if he saw a boat with a 200 horsepower motor bearing his name zipping around a 59 acre lake. I'm guessing he would tell the fella driving the boat to stay out in the middle.

I firmly believe this law is long overdue. It offers much needed protection for people and lakes. I can't think of even *one* good reason to go fast near shore but there are many, many reasons not to. A 100 foot-from-shore no-wake buffer will be healthier for lakes and safer for all who use them. Thank you for helping us protect our lakes.

Respectfully,



Jim Brakken
Wisconsin Conservation Congress Delegate
President, Bayfield County Lakes Forum
Past President, Wisconsin Association of Lakes
Vice President, Northwest Wisconsin Waters Consortium

Attachments:

1. Bill Engfer article
2. DNR Limnologist Tim Asplund quotes
3. Press clipping: BODY OF MISSING WOMAN FOUND, Stevens Point Daily Journal, April 18, 2000
4. 2008/09 Senate hearing results on No-wake bill.

Addendum to Brakken statement:

Before I close I would like to mention that Marc Schultz, chair of the Wisconsin Conservation Congress Waterfowl Committee phoned me last year with his concern that this law would create a hardship for many of the lakes that are created by the Mississippi River. His concern was that duck hunters need to get to their blinds quickly, often in the dark, early morning hours. When I mentioned the opt-out provision, he felt that would resolve the concern. He called me again this year. His committee now feels that because there are so many 'Mississippi' lakes affected, it would be best if the language of this bill would specify that the Mississippi lakes are exempted. My personal opinion is that this would be acceptable and would save the many local governments along the Mississippi from handling the exclusions on a one-by-one basis.

Near shore boating increases user conflicts and possibility of accidents

MADISON -- Operating motorboats away from shorelines of lakes can help prevent accidents and reduce conflicts with other lake users and property owners, state boating safety experts say.

"The closer you are to shore, the more congested the waters are with other boats and swimmers, and the greater your likelihood of having a near-miss or an accident," says Bill Engfer, boating law administrator for the Wisconsin Department of Natural Resources.

For that reason, and to reduce conflicts with lakeshore property owners, and with anglers and canoeists who are fishing or paddling near the shore, Engfer recommends boaters venture farther out into a lake.

"We've got a growing number of boaters out on the water, but everybody seems to like to stay in close to shore," Engfer says. "By moving out farther into the lake, you get away from the congestion and have more room to maneuver safely."

Wisconsin has 543,034 registered motorized boats and sailboats and attracts another estimated 300,000 boats from out of state. In addition, Wisconsin residents own an estimated 326,000 canoes, kayaks and other nonmotorized boats.

Statewide, motorboats must obey a slow no-wake speed within 100 feet of any dock, swimming raft, pier, or restricted area marked with buoys. Starting August 1, personal watercraft operators are required to operate at slow no wake speeds within 200 feet of the shoreline of lakes.

In addition, motorboats may not be operated at a speed greater than slow no wake on lakes 50 acres or less having public access, except when such lakes serve as thoroughfares between two or more navigable lakes.

Municipal governments are in charge of setting rules on lakes relative to local conditions, such as no wake zones and hours for water-skiing. Some municipalities in the state have expanded no-wake zones in recent years as the number of boaters has increased and governments have sought to better protect swimmers and reduce noise complaints from shoreline property owners.

FOR MORE INFORMATION CONTACT: Bill Engfer (608) 266-0859

IMPACTS OF MOTORIZED WATERCRAFT ON THE LAKE ENVIRONMENT

Based on research by Tim Asplund, WDNR Limnologist

Excerpts from report:

While the effects of boats on aquatic systems are complex and depend on a number of factors, a few general observations can be made:

First, the physical effects of propeller, waves, and turbulence appear to be more of an issue than engine fuel discharge. Water clarity, aquatic plant disturbance, and shoreline erosion are all serious issues that can be accelerated by boat traffic.

Second, most of the impacts of boats are felt directly in shallow waters (less than 10 feet deep) and along the shoreline.

Third, these effects can have repercussions for other features of the aquatic ecosystem, including the fish

and wildlife community and nutrient status.

These observations all indicate that the most important area of a lake to protect is the shallow water, near shore habitat known as the littoral zone.

Boats that operate in deep waters with large surface areas are not likely to be impacting the aquatic ecosystem.

What can we do?

1. Establish No-Wake Zones.

Given that most impacts of boats are exhibited in shallow-water, near-shore areas, protecting these areas with no wake zones would be the most effective way of reducing impacts. No-wake zones have a dual benefit of both slowing boats down and directing traffic elsewhere. Extending a no-wake zone to 200 or even 300 feet has the most potential to protect the littoral zone and help reduce shoreline erosion.



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Stevens Point Journal

Tuesday, April 18, 2000

www.stevenspointjournal.com

Body of missing woman found

By TROY LAACK and
MELISSA LAKE
for the Journal

PORT EDWARDS — It was a cold, dark and dreary day, but Monday evening brought closure to a tragic weekend for the family of a 22-year-old woman knocked out of a boat into Nepco Lake Friday.

"At least we found her," said Cheryl Vechinski, the mother of Gina Winters, town of Saratoga. "Before we found her, to be honest with you, I thought she was in the woods knocked unconscious ... at least we had hoped. Now, we can put her to rest."

Vechinski, like Winters' other family members and several volunteers, searched and dragged the silt-laden waters for Winters throughout the day Monday. Her body was finally found at about 5:45 p.m. about 125-150 yards from the tree she hit close to the island

home of Charles and JoAnn Lester, 300 Nepco Lake Road, Port Edwards.

"I'd like to thank all the volunteers and everybody who helped," Vechinski said. "There are no words that can express how we feel for the people that helped."

Wood County Sheriff Kurt Heuer, in a somber mood as he stood on the dock at the Lester home, only yards away from where Winters was found, said the body was recovered with a three-pronged hook attached to a nylon line.

"We were able to snag the pants of the young lady and bring her to the surface," Heuer said. "Everybody here had one goal and one mission and that was to find this young lady and to help the family with that part of it. We're very fortunate, very happy that she was found today and my thoughts

See DROWNING, A5



Thomson News photo by Casey Lake

LISA VECHINSKI, sister of drowning victim Gina Winters, holds a rosary and photo of Gina after a search resumed Monday.

From A5

Winters was among six people traveling in a westbound boat driven by her husband, Troy, 27. The boat was traveling about 25-30 mph, close to the southern shore of Alexander Island when Gina Winters hit a tree that extended about 25 feet, almost horizontally, over the water.

2008 & 2009 Senate hearing results on No-Wake bill

Testimony before the Senate Committee on Natural Resources & Environment
February 7, 2008 State Capital Building, Madison

SB 385 100' from undeveloped shore no-wake rule

Testifying in support:

- **Senator Jauch** spoke in favor, explaining the need for the 100' from undeveloped shore no-wake buffer.
- Jim Brakken offered support representing the **Bayfield County Lakes Forum** and **Northwest Wisconsin Waters Consortium** plus **Cable Lake Association**.
- Tami Jackson offered **WAL's** position and support.
- Brakken also offered the **Wisconsin Conservation Congress'** hearing results.
- **DNR enforcement** personnel supported the proposal.
- Ted Griggs, **Douglas Co Assn of Lakes and Streams**, spoke in favor.

There was **no opposition**

Later approved by the full Senate.

Not scheduled for an Assembly hearing in 2008.

Testimony before the Senate Committee on Natural Resources & Environment
February 11, 2009 State Capital Building, Madison

SB 12 100' from undeveloped shore no-wake rule

At the Feb 11, 2009 Senate hearing, the following testified in support:

- **Sen. Bob Jauch**
- Jim Brakken, representing the **Bayfield County Lakes Forum** and the **Northwest Wisconsin Waters Consortium**.
- Sybil Brakken, CB/CW monitor representing the **Town of Cable AIS Prevention Program**.
- George Meyer, representing the **Wisconsin Wildlife Federation**.
- Tamara Jackson, representing **WAL**.
- Tim Asplund, **Chief DNR Limnologist**.
- Dustin Grant **Wisconsin Conservation Congress Warm Water Committee**.

No opposition again this year.

Approved by the Committee on March 24.

Sent to Assembly for scheduling. Scheduled for March 11, 2009.



Wisconsin Association of Lakes

Assembly Natural Resources Committee
March 11, 2009

STATEMENT IN SUPPORT SENATE BILL 12 AND ASSEMBLY BILL 90

William P. O'Connor
608-255-7277

The Wisconsin Association of Lakes (WAL) urges the Committee to support this proposal which will help protect sensitive lake shorelines and improve public safety.

Swimming and fishing activities are concentrated in the near shore area of our lakes. The use of this area by high speed boats presents an unwarranted threat to the safety of swimmers, especially children. This bill reflects a fair and reasonable balance that would reduce conflicts between swimming and other passive uses of public waters and high speed watercraft.

The legislation would also protect water quality, fish habitat and the value of shoreland property. Wave action resulting from the operation of boats at cruising speeds in the near shore area increases bank erosion. Shore erosion results in the loss of valuable shoreland property, increasing demand for rip rap and similar erosion protection measures. Eroded soil increases the turbidity or cloudiness of lake waters and typically carries phosphorus and other plant nutrients that nourish algae and nuisance aquatic plants.

Propeller wash from the operation of outboard and inboard motors in the shallow areas (especially at higher speeds) worsens turbidity and excess fertilization of lake waters. Boat operation in these shallow areas can also uproot aquatic plants that provide important fish habitat.

This bill will not solve the long-term problem of lake water quality. But a reduction in boat speed in the near shore area is a helpful step in the right direction. Establishing a slow-no-wake speed zone extending 100 feet from the shoreline is a sensible starting point. But WAL recognizes that, in some locations, a 100-foot slow-no-wake zone is too wide and would unreasonably interfere with navigation. A 100-foot slow-no-wake zone may be too narrow to protect sensitive features in other areas.

For this reason, we support the local "opt out" concept in Section 2. However, we are concerned that the current language may be insufficient to clarify: (1) that local "opt out" authority extends to Dane County (whose boat regulation authority is established under s. 33.455 rather than s. 30.77) and (2) that local "opt out" ordinances may establish shoreline slow-no-wake zones that are either wider or narrower than 100 feet based on local conditions. We urge the Committee to consider an amendment to the bill that would avoid confusion on these key points.

The use of slow-no-wake zones has become a common element of local boating ordinances. This is an effective approach that balances different recreational uses with the protection of property, habitat and public safety. Establishing a statewide slow-no-wake area extending 100 feet from shore is an important and positive step, but it must be done in a way that recognizes the continuing need for local regulations that address the particular circumstances of a particular lake or a part of a lake where a slow no wake zone with different dimensions is warranted. We look forward to working with the Committee and the bill authors to make sure the bill accomplishes its goals and urge your support